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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,977	10/21/2003	Gregg D. Wilensky	07844-618001/P575	4697
21876	7590	06/21/2005		
FISH & RICHARDSON P.C. P.O. Box 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER LUU, MATTHEW	
			ART UNIT 2676	PAPER NUMBER
DATE MAILED: 06/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/690,977

Applicant(s)

WILENSKY, GREGG D.

Examiner

LUU MATTHEW

Art Unit

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/4/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14, 16-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta (6,204,858) in view of Kokemohr (US 2003/0099411).

Regarding independent claims 1 and 17, Gupta discloses (Figs. 2, 4, 5 and 9) a computer-implemented method for processing a digital image, the method comprising:

modifying the digital image at a location within the image, the modification causing a change of a first local attribute of the image at the location (Fig. 4, step 410, a user selects an eye portion of a digital image and change the first attribute such as enhancing the red color value to determine area of image for color adjustment) (Column 3, lines 12-33).

Gupta further discloses (Fig. 5) a step of testing for identify red eye area candidates "a test may determine that a red eye area candidate is identified when the convolution calculation exceeds a predetermined threshold." (Column 4, lines 6-8).

Gupta also discloses (Fig. 9) the step of adjusting a second attribute of the image at the location (reduce intensity of glare 444) based on the step of testing, the second attribute (reduce intensity of glare 444) being different from the first attribute (enhance the red color value) (Column 5, line 66 to column 6, line 13).

The only difference between the disclosure of Gupta and the claimed invention is that claims 1 and 17 require the step of "measuring the change of the first attribute", instead of testing the red color attribute as taught by Gupta.

However, Kokemohr from the same field of endeavor discloses the method that modifies a selected portion of a digital image, "whereby image measurement and modification" can be provided (Section 31).

Therefore, it would have been obvious to a person of ordinary skill in the art to use the step of "measuring and modifying" the attribute of the portion of a digital image, as taught by Kokemohr, for the step of testing the red color attribute of Gupta to provide a faster method of modifying the attribute of a digital image. This method can save the user time since the user can adjust the attribute, such as color, contrast, noise reduction, brightness, tone, etc. at the exact measured value instead of keep adjusting the attribute a number of times before getting the desired attribute value.

Regarding claims 2-3 and 18-19, Kokemohr teaches "Although embodiments of the invention which adjust color, contrast, noise reduction, and sharpening are described, the present invention is useful for altering any attribute of feature of the digital image" (Section 31, the last 5 lines). Therefore, modifying the attributes such as tone, shadows and highlights for a digital image is conventional in the art.

Regarding claims 4 and 20, Kokemohr teaches the adjusting of color and contrast (Section 31, the last 5 lines).

Regarding claims 5-7 and 21-23, Kokemohr discloses (Fig. 2) the adjustment of luminance, chrominance (color) and saturation.

Regarding claims 8-10 and 24-26, Gupta discloses (Figs. 6-8) a different types of filters for enhancing the relative intensity of red color component (Column 3, lines 24-51). It is obvious to the person of ordinary skill in the art to recognize that, when the user adjusts the color intensity, the image sharpness or blurring is also adjusted relatively.

Regarding claims 11-12 and 27-28, Kokemohr discloses (Fig. 2) the adjustment of luminance, chrominance (color) and saturation.

Regarding claims 13-14 and 29-30, Kokemohr teaches the relative change (relative difference) of the portion of the digital image (Section 205). Furthermore, using an absolute value or a relative different values to calculate the data change is an obvious design choice since it only depends on how much convenient and time consumption to calculate the data change.

Regarding claims 16 and 32, Kokemohr teaches adjusting the image includes applying a directional correction (Sections 185 and 187).

***Claim Rejections - 35 USC § 103***

Claims 15 and 31 rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta in view of Kokemohr as applied to claims 1 and 17 above, and further in view of Kaltenback et al (US 2003/0234960).

Regarding claims 15 and 31, Gupta further teaches the attribute adjustment is proportional (using a ratio values) (Column 5, lines 15-25).

Gupta fails to teach the adjustment is proportional to the measured data.

However, Kaltenback discloses (Fig. 3) the adjustment is proportional to the measured data (step 208 shows the computing the image differences or ratio). Therefore, it would have been obvious to use the adjustment data, which is proportional to the measured data, as taught by Kaltenback, into the digital image adjustment device of Kokemohr since this is conventional in the art.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Shinbata (6,813,335) discloses (Fig. 19) the first tone conversion circuit and the second tone conversion circuit.

-Reed et al (US 2004/0125983) disclose a color mapping process enhances a watermark by computing a change in colors and measuring the changes in the image sample values (Section 143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUU MATTHEW whose telephone number is (571) 272-7663. The examiner can normally be reached on Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BELLA MATTHEW can be reached on (571) 272-7663. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Luu



**MATTHEW LUU**  
**PRIMARY EXAMINER**